

**Remarks/Arguments:**

Claims 1-15 are pending in the above-identified application.

The Title was objected to for not being descriptive. The Title has been amended to recite, "Information Transmitting Apparatus, Operation Apparatus, Information Processing System and Program for Changing an Information Transmittable Distance."

Claims 12-15 were rejected under 35 U.S.C. § 101 for not reciting a storage medium. Claims 12-15 are amended to include a computer readable medium.

Claims 12-15 were also rejected under 35 U.S.C. § 101 because the specification does not contain any software coding for supporting the claimed program. This rejection is traversed in view of Fonar Corp. v. GE, 107 F.3d 1543; 41 U.S.P.Q.2D (BNA) 1801 (Fed. Cir. 1997). The Court in Fonar held,

As a general rule, where software constitutes part of a best mode of carrying out an invention, description of such a best mode is satisfied by a disclosure of the functions of the software. This is because, normally, writing code for such software is within the skill of the art, not requiring undue experimentation, once its functions have been disclosed. It is well established that what is within the skill of the art need not be disclosed to satisfy the best mode requirement as long as that mode is described. Stating the functions of the best mode software satisfies that description test. Fonar at 1549.

Claims 1, 5 and 12 were rejected under 35 U.S.C. § 102 (e) as being anticipated by Olson et al. Claim 1 is amended to include,

... an information storage part for storing information which includes **an authentication identifier which identifies the information transmitting apparatus** ... (Emphasis added).

Basis for these amendments may be found in the specification at page 5, lines 5-7 and Figure 1. With regard to claim 1, Olson et al. do not disclose or suggest an information storage part for storing information which includes an authentication identifier which identifies the information transmitting apparatus. Olson et al. include a wireless control system for

wireless control of a home electronic system based on the location of the wireless control system. The system includes a transmitter circuit, an interface circuit, and a control circuit. The interface circuit is configured to receive navigation data from a navigation data source. Olson et al. do not, however, include an authentication identifier of any kind.

Because Olson et al. do not disclose or suggest the features of claim 1, claim 1 is not subject to rejection under 35 U.S.C. § 102 (e). Claims 5 depends from claim 1. Accordingly, claim 5 is also not subject to rejection under 35 U.S.C. § 102 (e) in view of Olson et al.

Claim 12, while not identical to claim 1, includes features similar to those set forth above with regard to claim 1. Thus, claim 12 is also allowable over the art of record for reasons similar to those set forth above with regard to claim 1.

Claims 2, 6 and 13 were rejected under 35 U.S.C. § 103 (a) as being anticipated by Olson et al. and Westerlage et al. As described above, Olson et al. do not disclose or suggest the features of claims 1 and 12. Westerlage et al. include an apparatus for determining a tax for a vehicle. The apparatus includes a positioning device operable to determine a plurality of vehicle positions along a route traveled by the vehicle and a memory that stores geographic information defining a plurality of taxing regions through which the route of the vehicle passes. Westerlage et al do not, however, include an authentication identifier of any kind.

Because Olson et al. and Westerlage et al. do not disclose or suggest the features of claims 1 and 12, claims 1 and 12 are not subject to rejection under 35 U.S.C. § 103 (a). Claims 2 and 6 depend from claim 1. Claims 13 depends from claim 12. Accordingly, claim 2, 6 and 13 are also not subject to rejection under 35 U.S.C. § 103 (a) in view of Olson et al. and Westerlage et al.

Claim 3 was rejected under 35 U.S.C. § 103 (a) as being anticipated by Olson et al. and Streimer. As described above, Olson et al. do not disclose or suggest the features of claim 1. Streimer includes a mobile wireless device that is used to communicate with one or more wireless devices that correspond to predetermined physical locations. A product/service provider uses the mobile wireless device to broadcast a first digital message to one or more wireless devices that are within range of the mobile wireless device and that correspond to

physical locations. Streimer does not, however, include an authentication identifier of any kind.

Because Olson et al. and Streimer do not disclose or suggest the features of claim 1, claim 1 is not subject to rejection under 35 U.S.C. § 103 (a). Claim 3 depends from claim 1. Accordingly, claim 3 is also not subject to rejection under 35 U.S.C. § 103 (a) in view of Olson et al. and Streimer.

Claim 4 was rejected under 35 U.S.C. § 103 (a) as being anticipated by Olson et al. and Siegel. As described above, Olson et al. do not disclose or suggest the features of claim 1. Siegel includes a method for an emergency vehicle alert system for transmitting signals from one or more emergency vehicles to a nearby commuter vehicle includes activating an initiation switch in one or more of the emergency vehicles. Siegel does not, however, include an authentication identifier which identifies the information transmitting apparatus.

Because Olson et al. and Siegel do not disclose or suggest the features of claim 1, claim 1 is not subject to rejection under 35 U.S.C. § 103 (a). Claim 4 depends from claim 1. Accordingly, claim 4 is also not subject to rejection under 35 U.S.C. § 103(a) in view of Olson et al. and Siegel.

Claims 7-9 were rejected under 35 U.S.C. § 103 (a) as being anticipated by Olson et al. and Fitzgibbon et al. As described above, Olson et al. do not disclose or suggest the features of claim 1. Claims 7 and 9, while not identical to claim 1, include features similar to those set forth above with regard to claim 1.

At page 9 of the Office Action, the Examiner asserts that the control circuit 150 in Fitzgibbon et al. is an authentication part which authenticates the received information. The control circuit 150 in Fitzgibbon et al. is used to compare previously acquired thumbprint data with incoming thumbprint data. (Para. [0042]). Thus, the authentication identifier (i.e. the thumbprint) in Fitzgibbon et al. identifies the **thumbprint of a user**. The authentication identifier does not **identify the information transmitting apparatus**. In contrast, in an exemplary embodiment of Applicant's invention, the authentication identifier **identifies the information transmitting apparatus**. (Page 5, lines 5-7).

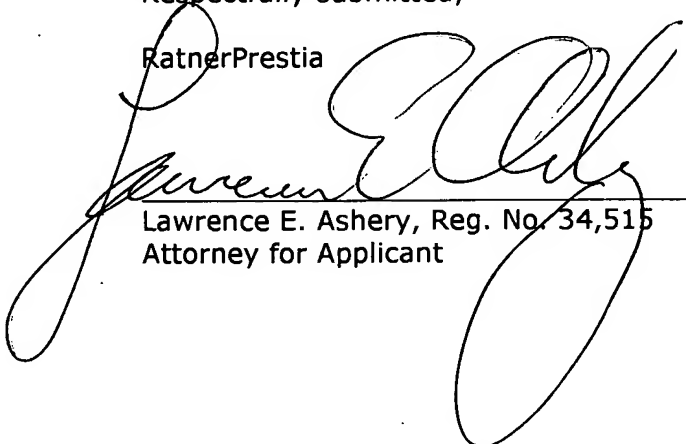
Because Olson et al. and Fitzgibbon et al. do not disclose or suggest the features of claims 7 and 9, claims 7 and 9 are not subject to rejection under 35 U.S.C. § 103 (a). Claim 8 depends from claim 7. Accordingly, claim 8 is also not subject to rejection under 35 U.S.C. § 103(a) in view of Olson et al. and Fitzgibbon et al.

Claims 10, 11, 14 and 15 were rejected under 35 U.S.C. § 103 (a) as being anticipated by a combination of references to Olson et al., Fitzgibbon et al. Westerlage et al. and Streimer and Siegel. As described above, Olson et al., Fitzgibbon et al. Westerlage et al., Streimer and Siegel do not disclose or suggest the features of claims 9 and 12. Claims 10 and 11 depend from claim 9 and claims 14 and 15 depend from claim 12. Accordingly, claims 10, 11, 14 and 15 are also not subject to rejection under 35 U.S.C. § 103(a) in view of Olson et al. and Fitzgibbon et al. Westerlage et al. and Streimer and Siegel.

In view of the foregoing amendments and remarks, this Application is in condition for allowance which action is respectfully requested.

Respectfully submitted,

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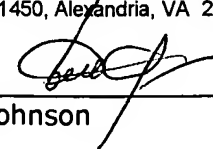
LEA/DFD/mjc/dmw/bj

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